
OLR Bill Analysis

sSB 412

AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE CONCERNING THE REGULATION OF EMBALMERS AND FUNERAL SERVICE ESTABLISHMENTS AND CERTAIN PROFESSIONAL BOARD AND COMMISSION HEARINGS.

SUMMARY:

This bill requires the Department of Consumer Protection (DCP) commissioner to establish and maintain a guaranty fund to pay claims by funeral service contract purchasers or beneficiaries when funeral service establishments fail to (1) deposit contract funds in an escrow account as the law requires and (2) honor the contract. Among other things, it (1) sets procedures for claimants seeking payment from the fund; (2) requires funeral service establishments to repay amounts paid for claims against them, plus interest, before their licenses can be renewed; and (3) allows the commissioner to ask the attorney general to take needed action to sell or apply the establishment's assets to reimburse the fund.

The bill requires funeral service establishments to provide a copy of DCP's funeral service contract fact sheet to anyone who (1) inquires in person about purchasing a funeral service contract or (2) purchases such a contract, before the person signs it.

By law, the Department of Public Health's (DPH) professional boards and commissions (see BACKGROUND) may conduct hearings on any matter within their statutory jurisdiction. The hearings must comply with the Uniform Administrative Procedure Act (UAPA) and DPH regulations. The bill requires at least one public board or commission member and one member who is a member of the profession regulated by the board or commission, to preside at any such hearing.

The bill also makes a technical change.

EFFECTIVE DATE: July 1, 2013, except for the provision on members presiding at DPH board or commission hearings, which is effective October 1, 2012.

§ 2 – FUNERAL SERVICE CONTRACT GUARANTY FUND

The bill requires the DCP commissioner to establish and maintain the Connecticut Funeral Service Contract Guaranty Fund, and allows him to adopt regulations implementing the bill's provisions related to the fund.

Fund Deposits

The bill requires DPH to transfer to the DCP commissioner, for deposit in the guaranty fund, \$10 of the fee from each embalmer or funeral director license and annual license renewal. DPH must transfer the fees quarterly. The bill allows money in the fund to be invested in the same way as funds in the State Employees Retirement System. Any interest earned on the investments must be credited to the fund.

Claims

The bill allows purchasers or beneficiaries of funeral service contracts to apply to the DCP commissioner for payment from the guaranty fund when the person discovers that the licensed funeral service establishment (1) failed to deposit funds received from the contract in an escrow account as required by law and (2) refuses to honor the contract.

Purchasers or beneficiaries making such a claim for payment from the fund must apply on forms the DCP commissioner prescribes. The application must include (1) the funeral service establishment's name and address, (2) the contract date and price, (3) the amount and basis of the claim, (4) a copy of the contract or other documentation the commissioner accepts, and (5) any other information the commissioner requires.

The bill requires the commissioner to hold a hearing on the application, if after examining the application and initially

investigating the claim, he determines there is some basis to claim that the funds were not put into escrow and the establishment refused to honor the contract. A single hearing may be held for all claims against a single funeral service establishment. The bill requires the hearing to be in accordance with the UAPA, except the commissioner's decision on the application is final and not subject to appeal.

If the commissioner finds in favor of the purchaser or beneficiary after notice and a hearing, he must issue an order requiring payment from the guaranty fund of the sum he finds to be payable on the application. He must notify DPH after paying any amount pursuant to such an order. The bill allows the commissioner to order payments that are less than the actual loss the claimant incurred, to preserve the guaranty fund's integrity.

Effect of Successful Claim and Recovery of Claim Amounts

Under the bill, after the DCP commissioner pays an amount from the fund pursuant to such an order, the funeral service establishment is ineligible for a new or renewed DPH license until it fully repays the amount, plus interest. The DCP commissioner sets the interest rate.

After paying a claim from the fund, the DCP commissioner must also determine if the funeral service establishment has any real or personal property or other assets that can be sold or applied to satisfy the claim on the guaranty fund. If the commissioner discovers the establishment has such assets, he may ask the attorney general to take any necessary action to reimburse the fund from those assets.

Once the fund has paid a claimant, the person must assign to the commissioner his or her rights to recover the money. Any amount and interest the commissioner recovers on the claim must be deposited in the guaranty fund.

BACKGROUND

DPH Boards and Commissions

Professional boards and commissions within DPH include the following:

1. the Connecticut Medical Examining Board;
2. the Connecticut State Board of Examiners for Optometrists;
3. the Connecticut State Board of Examiners for Nursing;
4. the Dental Commission;
5. the Board of Examiners of Psychologists;
6. the Connecticut Board of Veterinary Medicine;
7. the Connecticut Homeopathic Medical Examining Board;
8. the Connecticut State Board of Examiners for Opticians;
9. the Connecticut State Board of Examiners for Barbers and Hairdressers and Cosmeticians;
10. the Connecticut Board of Examiners of Embalmers and Funeral Directors;
11. the State Board of Natureopathic Examiners;
12. the State Board of Chiropractic Examiners;
13. the Connecticut Board of Examiners in Podiatry;
14. the Board of Examiners of Electrologists; and
15. the Connecticut State Board of Examiners for Physical Therapists (CGS § 19a-14(b)).

Related Bill

sHB 5498, reported favorably by the Public Health Committee on March 26, 2012, allows people to pay for funeral service contracts by assigning the death benefit under a life insurance policy, and makes other changes related to funeral service establishments.

COMMITTEE ACTION

Program Review and Investigations Committee

Joint Favorable Substitute Change of Reference

Yea 10 Nay 0 (03/16/2012)

Public Health Committee

Joint Favorable

Yea 24 Nay 0 (03/23/2012)